

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

The Peoples Gas Light and Coke Company)	
)	
)	
Petition Pursuant to Rider QIP of Schedule)	ICC Docket No. 15-0209
Of Rates for Gas Service to Initiate a)	
Proceeding to Determine the Accuracy and)	
Prudence of Qualifying Infrastructure Investment)	

**REPLY OF THE PEOPLE OF THE STATE OF ILLINOIS
TO THE RESPONSE OF THE PEOPLES GAS LIGHT & COKE COMPANY
TO THE ICC STAFF’S MOTION TO STAY**

Pursuant to the Rules of Practice of the Illinois Commerce Commission (“Commission” or “ICC”), 83 Ill. Admin. Code § 200.190, the People of the State of Illinois, by and through Lisa Madigan, Attorney General of the State of Illinois (“AG” or “the People”), hereby file their Reply to the Response of The Peoples Gas Light & Coke Company (“Peoples Gas” or “PGL” or the “Company”) filed on January 6, 2016 to the Motion to Stay filed by the ICC Staff (“Staff”) on December 23, 2015 in the above-captioned proceeding. In reply to the Company’s Response, the People state as follows:

1. The Company argues that Staff’s Motion to Stay is “not consistent” with the Staff Report regarding PGL’s Accelerated Main Replacement Program (“AMRP”) that the Commission voted to adopt on December 16, 2015 (the “Staff Report”). PGL Response at 1. As the Company notes, that Staff Report recommended “stay[ing] any docketed proceedings, both current and future, related to Peoples’ Rider QIP until the issues highlighted herein have been resolved.” PGL Response at 1 (citing Staff Report at 1; *see also id.* at 8).

2. The Company notes that Staff's Motion to Stay requested only a stay of the filing of testimony, without any provision as to discovery. PGL Response at 3 (citing Motion to Stay at 4). PGL states that it opposes "a stay that has no other effect" than to postpone testimony, arguing that maintaining the progression of discovery in this proceeding during the pendency of the workshops ordered pursuant to the Staff Report "risks wasteful duplication of effort by Peoples Gas, Staff and intervenors participating in this and other proceedings and unnecessarily burdens Peoples Gas with responding to discovery in a case that is purportedly on hold." PGL Response at 3.

3. It is not clear, however, how the propagation of discovery questions and preparation of responses in this proceeding would be "wasteful" or "duplicative." The Staff Report does not contemplate that parties may issue formal discovery requests as part of the workshops. Moreover, the focus of the workshops appears to be on plans for the AMRP going forward, not on the prudence of 2014 AMRP investments, which is the focus of the *instant* proceeding under Section 9-220.3(e)(2)¹ of the Public Utilities Act and Section 556.100² of the Commission's Rules. *See* Staff Report at 8-10 (outlining workshop topics). It is difficult to see how information revealed in the workshops about future AMRP plans might somehow render discovery requests made in this proceeding about prior investments unnecessary or irrelevant. Moreover, if the Company is concerned that information prepared for dissemination in the workshops could be literally identical to information requested through discovery requests in the instant proceeding, it is difficult to see how simply copying the information would be especially burdensome.

¹ 220 ILCS 5/9-220.3(e)(2).

² 83 Ill. Admin. Code § 556.100.

4. PGL purports to speak for the intent of Staff in drafting the Staff Report or the intent of the Commission in adopting the Staff Report, arguing that “the rationale for staying this proceeding is to wait for resolution of issues that Staff raised in the Report” and that “Staff expected that the workshop and comment process would affect the substance of this proceeding.” PGL Response at 3-4. Based on this assumption, PGL argues that

continued discovery before getting the added clarity and focus that may result from the workshops is wasted effort by those asking data requests and by Peoples Gas responding to requests that all parties may later deem superfluous or off-the-mark because of the outcome of the workshop process.

PGL Response at 4.

5. While PGL attempts to play amateur sleuth or psychologist, the People will not attempt to discern the intent of Staff or of the Commission in deciding upon a “stay” of this proceeding. The Commission may have merely wished to focus its attention upon resolution of the AMRP problems raised in the Staff Report and in recent audit reports filed by The Liberty Consulting Group³ before it moves forward with adjudication of any other AMRP-related issues. It does seem unlikely that the workshop process, which concerns itself with future plans for the AMRP, could somehow generate information that would render “superfluous or off-the mark” questions about prior investment activity.

6. Moreover, under Illinois law, a “stay of proceedings” is not automatically or necessarily interpreted to include a stay of discovery. For example, Section 7 of the Cannabis and Controlled Substances Tort Claims Act, 740 ILCS 20/7, provides that “[t]he prosecuting attorney of any government or governmental subdivision or agency may move for a stay of any proceeding brought under this Act, to include all discovery, pending the completion of an

³ See Staff Report at 6-7; see also <http://www.icc.illinois.gov/NaturalGas/NaturalGasInvestigations.aspx>.

investigation or prosecution of a case related to the subject matter of a suit brought under this Act.” If the term “stay” alone automatically encompassed discovery, then the statutory clarification that it “include[s] all discovery” would not be necessary. As an additional example, in 1979 the state Pollution Control Board issued an order “stay[ing] the proceedings pending discovery” in response to a petitioner’s motion. *Interlake, Inc. v. Environmental Protection Agency*, 1979 WL 10677 (Ill. Pol. Control Bd. 1979)

7. In conclusion, as the People stated in their Response dated January 6, 2016, they do not object to Staff’s Motion for Stay to the extent it asks for a limited stay of the filing of testimony in this proceeding, but they request that the ALJ make clear that discovery in this docket and related motion practice may continue.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

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January 13, 2016